



Senate

General Assembly

February Session, 2008

File No. 460

Senate Bill No. 683

Senate, April 4, 2008

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING CERTAIN MUNICIPAL CONSTRUCTION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 10-287 of the 2008 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (b) All orders and contracts for school building construction
5 receiving state assistance under this chapter, including orders and
6 contracts for architectural or construction management services, shall
7 be awarded to the lowest responsible qualified bidder only after a
8 public invitation to bid, which shall be advertised in a newspaper
9 having circulation in the town in which construction is to take place,
10 except for (1) school building projects for which the town or regional
11 school district is using a state contract pursuant to subsection (d) of
12 section 10-292, [and] (2) change orders, those contracts or orders
13 costing less than ten thousand dollars and those of an emergency
14 nature, as determined by the Commissioner of Education, in which

15 cases the contractor or vendor may be selected by negotiation,
16 provided no local fiscal regulations, ordinances or charter provisions
17 conflict, and (3) orders and contracts for architectural or construction
18 management services for which the awarding authority uses a
19 qualification-based selection process that is equivalent to the
20 procedure used by the Department of Public Works for the award of
21 contracts for the construction, reconstruction, alteration, remodeling
22 repair or demolition of any state building, as described in chapter 60.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	10-287(b)
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GAE *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Education, Dept.	GOBonds - Cost	Potential	Potential

Note: GOBonds=General Obligation Bonds

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
Local and Regional School Districts	Cost	Potential	Potential

Explanation

The bill results in a potential cost to the state and to local and regional school districts by allowing local and regional school districts to utilize Department of Public Works (DPW) procedures for awarding architectural and construction management service contracts rather than the current statutory procedure for such projects. The DPW process awards contracts based on a fair and reasonable fee being a secondary consideration. Making the fair and reasonable fee a secondary consideration may result in contracts which are more costly than current practice which requires that the contract be awarded to the lowest responsible qualified bidder. Since local school construction projects are in part funded through state school construction bonding any increased costs at the local level would in part be passed on to the state.

The Out Years

The fiscal impact identified above would continue into the future.

OLR Bill Analysis**SB 683*****AN ACT CONCERNING CERTAIN MUNICIPAL CONSTRUCTION.*****SUMMARY:**

This bill exempts school districts from the requirement that they award architectural and construction management services contracts for local school construction projects receiving state school construction grants to the lowest responsible qualified bidder. The exemption applies only if a district awards the contract by a “qualification-based selection process” equivalent to the Department of Public Works’ (DPW) procedure for awarding state contracts, as described in Chapter 60 of the General Statutes.

The bill is unclear which DPW process is to be the model for school districts. Chapter 60 requires DPW to use various selection processes for awarding state construction contracts, depending on the type and size of the project or contract. Although the statutes do not currently use the term “qualification-based selection process” and the bill does not define it, DPW’s *Selection and Bidding Manual* (July 7, 2007) identifies four such processes for selecting architects, construction administrators, engineers, and other professional consultants for different kinds of state construction projects. Of these, two appear to be tied to Chapter 60 (see below).

Current law requires districts to award all state-funded school construction contracts to the lowest responsible qualified bidder after advertising a public invitation to bid in a newspaper that circulates in the town where the construction will occur. The current exceptions to these requirements are for (1) school projects for which the district is using a state contract; (2) change orders; (3) contracts or other orders

costing less than \$10,000; and (4) projects the education commissioner determines are emergencies.

EFFECTIVE DATE: Upon passage

QUALIFICATION BASED SELECTION (QBS)

DPW's bidding manual defines QBS as a selection procedure in which bidders' qualifications and their bids, proposals, or offers are weighed and compared based on a specific project's scope and needs. Under such a system, contract awards are based first on highest qualifications and second on negotiating a fair and reasonable fee.

QBS CONSULTANT CONTRACT AWARD PROCEDURES UNDER CHAPTER 60

DPW's bidding manual identifies four QBS procedures for awarding contracts for architectural, engineering, and other professional consulting services on different types of state construction projects. Two are tied to Chapter 60 and are briefly summarized below.

Contracts for Major Projects (CGS §§ 4b-55 to 4b-59)

DPW uses a four-step QBS procedure to select firms to perform architectural, engineering, or other professional consulting contract services for most state construction projects when the project costs are estimated to exceed \$500,000 and the consulting services costs are expected to exceed \$50,000.

The procedure requires the DPW commissioner to:

1. advertise for bids or proposals,
2. establish a panel to screen the responses to the advertisements,
3. use a statutorily established selection panel to choose the top three bidders from among the firms recommended by the screening panel, and
4. select the most qualified firm from among the three

recommended to it by the selection panel.

Contracts for Remodeling, Repair, and Emergency Projects (§§ 4b-51 and 4b-52)

DPW must use a different procedure when contracting for consultant services on remodeling, alteration, repair, or expansion projects costing \$500,000 or less or emergency projects when the consultant services are expected to cost \$50,000 or less.

For these projects, the law requires the commissioner to choose a consultant from among firms already on an approved list. Firms must apply to be on the list in a manner and form the commissioner establishes. By law, the commissioner must invite firms to apply by advertising in one or more newspapers that circulate in each county in the state and in publications marketed to Connecticut small businesses.

Although the DPW manual also designates the selection process for consultants on such contracts as a QBS process, neither the statute nor the manual requires DPW to use screening or selection panels or any specific selection process or criteria (§ 4b-51).

BACKGROUND

State-Aided Local School Construction Projects

The state reimburses school districts for from 20% to 80% of the eligible costs local school construction projects. The reimbursement rate depends mostly on town wealth but districts may receive a higher reimbursement for certain types of projects, such as those involving space for school-readiness programs or full-day kindergarten. In addition, certain types of interdistrict projects (vocational agricultural centers, regional special education facilities, and interdistrict magnet schools) are reimbursed at the rate of 95% of eligible costs. Districts also receive a 10-percentage-point bonus for projects undertaken in cooperation with one or more other districts.

Related Bill

sSB 435, reported by the Education Committee, establishes a qualification and selection process for school districts to award

contracts for architectural and construction management services on local school construction projects receiving state school construction grants. The process specified in sSB 435 has steps that are similar, but not identical, to DPW's procedure for awarding major project contracts.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 9 Nay 3 (03/17/2008)